BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF CALIFORNIA

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Order Instituting Rulemaking to Implement the Commission's Procurement Incentive Framework and to Examine the Integration of Greenhouse Gas Emissions Standards into Procurement Policies	R.06-04-009

REPLY COMMENTS OF THE COGENERATION ASSOCIATION OF CALIFORNIA AND THE ENERGY PRODUCERS AND USERS COALITION ON THE PROPOSED INTERIM OPINION ON REPORTING AND TRACKING OF GREENHOUSE GAS EMISSIONS IN THE ELECTRICITY SECTOR

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The Energy Producers and Users Coalition[1] and the Cogeneration Association of California[2] (EPUC/CAC) strongly support the opening comments of Pacific Gas and Electric Company (PG&E) and Southern California Edison Company (SCE) opposing the Proposed Decision's proposal to assign default emissions factors to in-state specified resources.

The PD recommends that in accounting for emissions from in-state specified generating resources, the Air Resources Board (ARB) would attribute "*emissions based on the net generation purchased and the* ***default emission factor*** *for the region in which the specified source is*

1 EPUC is an ad hoc group representing the electric end use and customer generation interests of the following companies: Aera Energy LLC, BP America Inc. (including Atlantic Richfield Company), Chevron U.S.A. Inc., ConocoPhillips Company, Shell Oil Products US, THUMS Long Beach Company, and Occidental Elk Hills, Inc.

2 CAC represents the power generation, power marketing and cogeneration operation interests of the following entities: Coalinga Cogeneration Company, Mid-Set Cogeneration Company, Kern River Cogeneration Company, Sycamore Cogeneration Company, Sargent Canyon Cogeneration Company, Salinas River Cogeneration Company, Midway Sunset Cogeneration Company and Watson Cogeneration Company.

located…." [3] The ARB would attribute actual GHG emissions for purchases from specified sources only in narrow circumstances if: "*(a) the purchase is made through a PPA that was in effect prior to January 1, 2008 and either is still in effect or has been renewed without interruption, or (b) the purchase is made through a PPA from a power plant that became operational on or after January 1 2008*." PG&E and SCE both oppose this proposal on solid grounds, and EPUC/CAC join in the opposition.

SCE highlights provisions of AB 32 that require "*rigorous and consistent accounting of emissions,*" observing that "*a reporting protocol that uses default emission factors when actual emissions from specified sources are available does not meet this criteria*." [4] SCE further describes the "*perverse incentives*" that would be created by the use of default emissions factors for specified sources.[5] Finally, SCE points out that this protocol would "*have a huge impact on how resources are selected.*" [6]

PG&E offers similar arguments. PG&E correctly observes that "*[t]he proposal devalues existing lower emitting generation and removes the ability of lower emitting generation to negotiate contracts with other retail sellers if the retail seller is to be allowed to claim the lower emissions*."[7] Like SCE, PG&E points out that AB 32 requires the use of source data for reporting to the extent

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[3] PD, Attachment A, at A-7.
[4] SCE Comments on PD at 8.
[5] *Id.* at 9.
[6] *Id.* at 10.
[7] PG&E Comments on PD at 6.

available.[8] Finally, PG&E directly addresses the PD's purported motivation in its proposed specified source protocol:

> *Problems relating to "contract shuffling," both in-state and out-of-state, are worthy of consideration in the design of emissions limits and emission reduction measures. But the reporting rules are not the place or time to address the issue.*[9]

EPUC/CAC share the views expressed by PG&E and SCE, particularly as owners and operators of efficient, in-state combined heat and power (CHP) facilities that sell to the utilities under specified-resource contracts. Actual source-specific data from these CHP facilities will be reported to the ARB under protocols currently under development. To ignore these data in analyzing their effect on the state's GHG profile – replacing them with a default emissions factor – would distort incentives and send mixed market price signals.

The PD's proposal could mute incentives in-state generators might otherwise have to undertake GHG-reducing projects. If a generator were to reduce its average emissions rate by repowering or implementing efficient after-market technologies, it would make intuitive sense that the benefits of these reductions would be attributed to that generator. To the contrary, however, the proposed protocol would not directly recognize the generator's GHG-reducing investments and could deprive the generator of the value created.

The protocol would also send mixed price signals in the market. Under the proposed protocol, the market (whether the LSE portfolio or broader wholesale market) would not distinguish among existing resources based on their carbon emissions. In other words, the market would receive no price signal of

[8] *Id.* at 7.
[9] *Id.*

the relative carbon value of various existing resources. The market would, however, distinguish and value relative carbon emissions for new resources.

Consider the effect under a Load Based model. An “existing” resource has an emissions rate of 700 pounds per MWh, and a “new” resource, likewise, has an emissions rate of 700 pounds per MWh. Although the two resources are relatively carbon neutral, an LSE bound to reduce its emissions would place a higher value on power from the new resource because the actual emissions rate could be recognized in accounting protocols. This result would be discriminatory and threaten efficient market operation.

The proposed protocol requiring use of default emissions rates for in-state specified resources fails on many grounds to meet the AB 32 objectives and should be rejected. The protocols should provide instead for the use of actual data in accounting for emissions from specified in-state resources whenever such data are available and reported to ARB.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Amie Burkholder, hereby certify that I have on this date caused the attached **Reply Comments of the Cogeneration Association of California and the Energy Producers and Users Coalition on the Proposed Interim Opinion on Reporting and Tracking of Greenhouse Gas Emissions in the Electricity Sector** in R.06-04-009 to be served to all known parties by either United States mail or electronic mail, to each party named in the official attached service list obtained from the Commission's website, attached hereto, and pursuant to the Commission's Rules of Practice and Procedure.

Dated August 30, 2007 at San Francisco, California.

Amie Burkholder

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